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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,436	04/09/2007	Pascal Delbrassinne	SN142PCT1	3751

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EXAMINER

COLLINS, ALVIN

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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10/30/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents.admin@dowcorning.com

Office Action Summary	Application No. 10/581,436	Applicant(s) DELBRASSINNE ET AL.	
	Examiner Alvin C. Collins III	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Christiano et al. US 6,656,975 (hereinafter "Christiano").

Regarding claim 1, Christiano teaches a foam control composition comprising a silicone resin of (M) groups of the formula $R_2SiO_{1/2}$ and (Q) groups of the formula $SiO_{4/2}$ where the R groups are preferably methyl **((ii) a branched siloxane resin)** (see col. 3, lines 44-52), vegetable oil **((i)non-silicon-containing organic liquid)** (see col. 3, lines 66-67), treated silica **((iii) a particulate filler which is insoluble in the organic liquid)** see col. 3, lines 26-43), Pegosperse 50DS, a polyethylene glycol 400 distearate surfactant **((iv) polyol substantially fully esterified by carboxylate groups each having 7 to 36 carbon atoms)** (see col. 12, lines 15-17), and polypropylene glycol **((vi) a water-soluble or water-dispersible binder deposited on the carrier particles)** (see Example 24, col. 12, lines 15-30). Regarding **(v) a particulate carrier supporting the granulated foam control agent**, the treated silica Sipernat D11 also reads on this limitation as the specification list silicates as examples of carriers as of the instant invention (see Specification Page 7, [0023]).

Regarding claim 2, Christiano teaches in Example 24 a foam control composition prepared by mixing 16 parts of dispersion of 15% silicone resin in PDMS **(component which is miscible with the polyol ester)** with 4 parts of Pegosperse 50D at 70°C **(polyol ester)**. According to the Examiner's calculation, this corresponds to 20 and 80 parts by weight of the polyol ester and component which is miscible with the polyol ester, respectively (see Example 24, col. 12, line 15-30).

Regarding claim 3, Christiano teaches an antifoam composition wherein 20 parts of the antifoam concentrate (additive composition) is used with 80 parts of the organic liquid, corresponding to 25% by weight based on the organic liquid (See Examples 27-29, col. 12, lines 35-46).

Regarding claim 4, Christiano teaches the siloxane resin of the silicon antifoam consists of (M) groups of the formula $R_2SiO_{1/2}$ and (Q) groups of the formula $SiO_{4/2}$ where the R groups are preferably methyl. The molar ratio of (M) to (Q) groups is 0.4:1 to 1.2:1, which reads on the (M) and (Q) groups in the ratios as claimed (see col. 3, lines 44-52).

Regarding claim 6, Christiano teaches the a foam control composition wherein the particulate filler preferably has an average particle size is 0.1 - 20 μm (see col. 3, lines 31-33).

Regarding claims 5 and 7, Christiano teaches the polar organic liquid can be either a polyether (see col. 3, lines 53-65), a vegetable oil (see col. 3, lines 66-67), or mixture thereof (see col 4, lines 3-5). A genus does not always anticipate a claim to a species within the genus. However, when the species is clearly named, the species claim is anticipated no matter how many other species are additionally named. Ex parte A, 17 USPQ2d 1716 (Bd. Pat. App. & Inter. 1990). In view of this, the foam control composition of Example 24 comprises 16 parts of a dispersion of 15% siloxane resin in PDMS (2.4 parts branched siloxane resin), 1.7 parts treated silica Sipernat D11, 53.11 parts Pluronic L61 (block copolyether) and 0.9 parts vegetable oil (see col. 12, lines 15-30). According to examiner's calculation, this corresponds to 4.4 and 3.1 % based on the organic liquid of branched siloxane resin and treated silica, respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Collins III whose telephone number is (571) 270-7734. The examiner can normally be reached on Monday through Thursday, 7:30 am - 5:00 pm EST and on alternate Fridays from 7:30 am - 4:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AC/

/Randy Gulakowski/
Supervisory Patent Examiner, Art Unit 1796